

House Bill 2929

Sponsored by COMMITTEE ON HIGHER EDUCATION, INNOVATION, AND WORKFORCE DEVELOPMENT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires state contracting agency that awards public improvement contract with contract price of more than \$5 million to require contractor to employ apprentices to perform 10 percent of work hours on public improvement that workers in apprenticeable occupations perform. Increases apprentice employment requirement to 12 percent in 2020. Exempts Department of Transportation from requirement.

Provides that state contracting agency shall pay contractor for imputed costs that contractor incurs in complying with requirement.

Specifies reporting requirements for contractor and requires contractor to repay amounts that state contracting agency pays in excess of amount due contractor.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to incentives for increasing apprentice utilization on public improvements for state con-
3 tracting agencies; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS chapter 279C.**

6 **SECTION 2. (1) As used in this section:**

7 (a) "Apprentice" has the meaning given that term in ORS 660.010.

8 (b) "Apprenticeable occupation" has the meaning given that term in ORS 660.010.

9 (c) "Apprenticeship agreement" has the meaning given that term in ORS 660.010.

10 (d) "Apprenticeship training program" means the total system or apprenticeship that a
11 particular local joint committee, as defined in ORS 660.010, operates, including the local joint
12 committee's registered standards and all other terms and conditions for qualifying, recruit-
13 ing, selecting, employing and training apprentices in an apprenticeable occupation.

14 (2) A state contracting agency shall:

15 (a) Require in each public improvement contract for which the contract price exceeds \$5
16 million that the contractor employ apprentices to perform 10 percent of the work hours that
17 workers in apprenticeable occupations perform on the public improvement.

18 (b) Provide in the public improvement contract that, subject to subsection (4) of this
19 section, the state contracting agency will pay the contractor at a rate of \$20 per hour for
20 imputed costs the contractor incurs in having apprentices perform work on the public im-
21 provement.

22 (3) A contractor or subcontractor shall pay an apprentice for work on the public im-
23 provement at the hourly rate to which the apprentice is entitled under an apprenticeship
24 agreement or that the apprenticeship training program specifies.

25 (4) A state contracting agency shall provide in the public improvement contract that the
26 state contracting agency will pay a contractor at the rate specified in subsection (2)(b) of this

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 section for the total number of work hours that apprentices perform on a public improve-
 2 ment.

3 (5) Subject to the terms of the public improvement contract, a contractor on a public
 4 improvement may decide the locations in which, the types of work for which and other de-
 5 tails concerning how the contractor employs apprentices for work on the public improve-
 6 ment. The contractor may meet the requirement set forth in subsection (2)(a) of this section
 7 by requiring one or more subcontractors to employ apprentices for work on the public im-
 8 provement.

9 (6) A contractor shall report the extent of the contractor's compliance with this section
 10 to the state contracting agency on forms, with contents the state contracting agency speci-
 11 fies by rule, and at regular intervals that the state contracting agency specifies in the public
 12 improvement contract. The forms and the contents that the state contracting agency speci-
 13 fies must include, at a minimum, a report in which the contractor provides a detailed ac-
 14 counting of the total number of work hours each month and the cumulative total number
 15 of work hours since the public improvement contract term began in which:

16 (a) Workers in apprenticeable occupations performed work on the public improvement;
 17 and

18 (b) Apprentices performed work on the public improvement.

19 (7) Subject to subsection (8) of this section, a state contracting agency may pay a con-
 20 tractor for the contractor's imputed costs in complying with the requirement in subsection
 21 (2)(a) of this section in regular installments or periodically during the term of the public
 22 improvement contract if the contractor requests regular installment payments or periodic
 23 payments.

24 (8)(a) At least 30 days before making any final payment to a contractor under a public
 25 improvement contract, a state contracting agency shall determine the extent of the
 26 contractor's compliance with the requirement in subsection (2)(a) of this section. The state
 27 contracting agency shall base the determination on the ratio between the actual number of
 28 work hours that workers in apprenticeable occupations performed on the public improvement
 29 and the actual number of work hours that apprentices performed on the public improvement,
 30 as shown in reports that the state contracting agency receives under subsection (6) of this
 31 section.

32 (b) The state contracting agency, in accordance with the limitations set forth in sub-
 33 section (4) of this section, shall pay the contractor at the rate specified for the contractor's
 34 imputed costs in subsection (2)(b) of this section only for work hours that apprentices per-
 35 formed on the public improvement.

36 (c) If the state contracting agency pays the contractor for the contractor's imputed costs
 37 of complying with the requirement in subsection (2)(a) of this section in regular installments
 38 or at periodic intervals, the state contracting agency shall make the determination required
 39 under paragraph (a) of this subsection before each scheduled payment of the imputed costs
 40 and shall pay the contractor at the rate specified for the contractor's imputed costs in sub-
 41 section (2)(b) of this section only for work hours that apprentices performed on the public
 42 improvement in the interval since the previous scheduled payment.

43 (d) If a state contracting agency previously paid a contractor an amount that exceeds the
 44 amount due the contractor under paragraph (b) or (c) of this subsection, the state con-
 45 tracting agency shall notify the contractor immediately and require the contractor to repay

1 **the excess amount within 30 days after receiving the notice.**

2 **(9) A state contracting agency by rule shall specify a procedure under which a contractor**
 3 **may dispute the state contracting agency’s determination under subsection (8)(a) of this**
 4 **section.**

5 **(10) This section does not apply to the Department of Transportation or to a public im-**
 6 **provement contract that a contractor enters into with the department.**

7 **SECTION 3.** Section 2 of this 2015 Act is amended to read:

8 **Sec. 2.** (1) As used in this section:

9 (a) “Apprentice” has the meaning given that term in ORS 660.010.

10 (b) “Apprenticeable occupation” has the meaning given that term in ORS 660.010.

11 (c) “Apprenticeship agreement” has the meaning given that term in ORS 660.010.

12 (d) “Apprenticeship training program” means the total system or apprenticeship that a partic-
 13 ular local joint committee, as defined in ORS 660.010, operates, including the local joint committee’s
 14 registered standards and all other terms and conditions for qualifying, recruiting, selecting, em-
 15 ploying and training apprentices in an apprenticeable occupation.

16 (2) A state contracting agency shall:

17 (a) Require in each public improvement contract for which the contract price exceeds \$5 million
 18 that the contractor employ apprentices to perform [10] **12** percent of the work hours that workers
 19 in apprenticeable occupations perform on the public improvement.

20 (b) Provide in the public improvement contract that, subject to subsection (4) of this section, the
 21 state contracting agency will pay the contractor at a rate of \$20 per hour for imputed costs the
 22 contractor incurs in having apprentices perform work on the public improvement.

23 (3) A contractor or subcontractor shall pay an apprentice for work on the public improvement
 24 at the hourly rate to which the apprentice is entitled under an apprenticeship agreement or that the
 25 apprenticeship training program specifies.

26 (4) A state contracting agency shall provide in the public improvement contract that the state
 27 contracting agency will pay a contractor at the rate specified in subsection (2)(b) of this section for
 28 the total number of work hours that apprentices perform on a public improvement.

29 (5) Subject to the terms of the public improvement contract, a contractor on a public improve-
 30 ment may decide the locations in which, the types of work for which and other details concerning
 31 how the contractor employs apprentices for work on the public improvement. The contractor may
 32 meet the requirement set forth in subsection (2)(a) of this section by requiring one or more subcon-
 33 tractors to employ apprentices for work on the public improvement.

34 (6) A contractor shall report the extent of the contractor’s compliance with this section to the
 35 state contracting agency on forms, with contents the state contracting agency specifies by rule, and
 36 at regular intervals that the state contracting agency specifies in the public improvement contract.
 37 The forms and the contents that the state contracting agency specifies must include, at a minimum,
 38 a report in which the contractor provides a detailed accounting of the total number of work hours
 39 each month and the cumulative total number of work hours since the public improvement contract
 40 term began in which:

41 (a) Workers in apprenticeable occupations performed work on the public improvement; and

42 (b) Apprentices performed work on the public improvement.

43 (7) Subject to subsection (8) of this section, a state contracting agency may pay a contractor for
 44 the contractor’s imputed costs in complying with the requirement in subsection (2)(a) of this section
 45 in regular installments or periodically during the term of the public improvement contract if the

1 contractor requests regular installment payments or periodic payments.

2 (8)(a) At least 30 days before making any final payment to a contractor under a public im-
 3 provement contract, a state contracting agency shall determine the extent of the contractor's com-
 4 pliance with the requirement in subsection (2)(a) of this section. The state contracting agency shall
 5 base the determination on the ratio between the actual number of work hours that workers in
 6 apprenticeable occupations performed on the public improvement and the actual number of work
 7 hours that apprentices performed on the public improvement, as shown in reports that the state
 8 contracting agency receives under subsection (6) of this section.

9 (b) The state contracting agency, in accordance with the limitations set forth in subsection (4)
 10 of this section, shall pay the contractor at the rate specified for the contractor's imputed costs in
 11 subsection (2)(b) of this section only for work hours that apprentices performed on the public im-
 12 provement.

13 (c) If the state contracting agency pays the contractor for the contractor's imputed costs of
 14 complying with the requirement in subsection (2)(a) of this section in regular installments or at pe-
 15 riodic intervals, the state contracting agency shall make the determination required under para-
 16 graph (a) of this subsection before each scheduled payment of the imputed costs and shall pay the
 17 contractor at the rate specified for the contractor's imputed costs in subsection (2)(b) of this section
 18 only for work hours that apprentices performed on the public improvement in the interval since the
 19 previous scheduled payment.

20 (d) If a state contracting agency previously paid a contractor an amount that exceeds the
 21 amount due the contractor under paragraph (b) or (c) of this subsection, the state contracting
 22 agency shall notify the contractor immediately and require the contractor to repay the excess
 23 amount within 30 days after receiving the notice.

24 (9) A state contracting agency by rule shall specify a procedure under which a contractor may
 25 dispute the state contracting agency's determination under subsection (8)(a) of this section.

26 (10) This section does not apply to the Department of Transportation or to a public improvement
 27 contract that a contractor enters into with the department.

28 **SECTION 4. (1) Section 2 of this 2015 Act applies to public improvement contracts that**
 29 **a state contracting agency other than the Department of Transportation first advertises or**
 30 **otherwise solicits or, if the state contracting agency does not advertise or solicit the public**
 31 **improvement contract, to public improvement contracts that the state contracting agency**
 32 **enters into on or after the operative date specified in section 5 (1) of this 2015 Act.**

33 **(2) The amendments to section 2 of this 2015 Act by section 3 of this 2015 Act apply to**
 34 **public improvement contracts that a state contracting agency other than the Department**
 35 **of Transportation first advertises or otherwise solicits or, if the state contracting agency**
 36 **does not advertise or solicit the public improvement contract, to public improvement con-**
 37 **tracts that the state contracting agency enters into on or after the operative date specified**
 38 **in section 5 (2) of this 2015 Act.**

39 **SECTION 5. (1) Section 2 of this 2015 Act becomes operative January 1, 2016.**

40 **(2) The amendments to section 2 of this 2015 Act by section 3 of this 2015 Act become**
 41 **operative January 1, 2020.**

42 **(3) The Attorney General, the Director of the Oregon Department of Administrative**
 43 **Services or a state contracting agency that adopts rules under ORS 279A.065 may take any**
 44 **action before the operative date specified in subsection (1) of this section that is necessary**
 45 **to enable the Attorney General, the director or the state contracting agency to exercise, on**

1 and after the operative date specified in subsection (1) of this section, all of the duties,
2 functions and powers conferred on the Attorney General, the director or the state con-
3 tracting agency by section 2 of this 2015 Act.

4 SECTION 6. This 2015 Act being necessary for the immediate preservation of the public
5 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
6 on its passage.

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